

Quid Novi

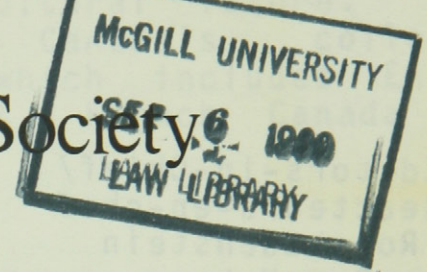
VOL. X NO.1

McGILL UNIVERSITY FACULTY OF LAW

Sept. 6, 1989

FACULTE DE DROIT DE L'UNIVERSITE MCGILL le 6 sept., 1989

A Particularly Distinct Society



By James D. Hughes, BCL II

Distinct societies are everywhere. They are the description of people growing up in different areas, with different needs, different opportunities, and different priorities. "Distinct" implies difference. A "difference" is by definition that which is not familiar. And unfamiliarity breeds fear. Let's face it, the "distinct society" clause in the Meech Lake Accord scares a lot of people.

The clause causes fear because, first of all, we're not sure why the distinct society of French-speaking Canadians in Quebec is being singled out for constitutional entrenchment. The second source of uncertainty is perhaps more profound: how is the distinct society going to manifest itself in law and politics in the generations to

come (presuming New Brunswick and Manitoba affirm the Accord)? We'll deal with this question next time. Answering these two concerns with clarity and unambiguity would go far in allaying the fear and putting us back on the road to national reconciliation, something the Prime Minister used to talk a lot about.

(Cont. on p.3)

QUOTES FROM WEEKS GONE BY

Prof. Benson on Kant:

"Babies don't talk. They just drown."

Prof. Webber in Civil Law Property:

"This is the very reason for you to read ahead of class... It's the only way you can slow me down."

Prof. Klinck in Equity and Trusts:

"I've never really understood the facts of this case... although I did write an article on it once."



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Calendrier Orientation Calendar

Mercredi / Wednesday Sept. 6

12:00-2:00 Journée Clubs Day
12h00-14h00 Beer & Pizza
On the lawn / sur la pelouse

7:00/19h00 Tutorial dinner
Cage aux sports

Jeudi / Thursday Sept. 7

5:00/17h00 -... Coffee House &
Dean's Reception
Medical Annex

Vendredi / Friday Sept. 8
au / to Sept. 15

12:00-3:00 Second Hand Book Sale
12h00-15h00 Vente de livres usagés

Lundi / Monday Sept. 11

8:00 / 20h00 Law Partners Party
Thomson House

Mardi / Tuesday Sept. 12

12:00-2:00 Legal Aid/Clinique d'aide
12h00-14h00 juridique
On the lawn/sur la pelouse

Mercredi / Wednesday Sept. 13
(non-confirmé/tentative)

Pub Crawl/Rally des
Brasseries

Lundi / Monday Sept. 18

7:35 / 19h35 Expos v. St. Louis
Stade Olympique/Olympic
Stadium

Les billets pour le "Tutorial Dinner" et les Expos seront vendus par les personnes suivantes:
Tickets for the Tutorial Dinner and Expos will be sold by the following people:

Geneviève Saumier

Anthony Fata

Stéphane Ethier

Robert Fabes

Patricia Kosseim

Laura Nield

Stacy Zosky

ainsi que par tous

auxiliaires d'enseignements

as well as by all tutorial leaders

La clinique wants you!

The McGill Legal Aid Clinic is here to provide with the opportunity to spend two hours per week actually practicing law! You can sign up at during the first two weeks of classes. Cette année nous présenterons quelques conférences données par des avocats et organiserons des visites du Palais de Justice et de la Cour Suprême. Enfin, n'oubliez pas de venir boire une bière avec nous, mardi, 12 septembre, sur la pelouse devant la Faculté.

Distinct Society (Cont. from p.1)

Alberta Premier Don Getty talked about his province's "distinct society" a little while ago. Albertans do form a society distinct from others, if only because they live in the Stampede province where non-Albertans do not. The same holds true for BC and PEI. It also holds for residents of cities, towns, villages, and farm communities. Geography need not form the only basis for the distinction between groups; it might also be ancestry, language, age, religion, education, sex, and many, many others.

By singling out Quebec's French-speaking population, the authours of the Meech Lake Accord are making the judgment that there is something about that society which is particularly distinct. That characteristic which is particularly distinct cannot be the use of the French language because there are more than half a million francophones living outside Quebec. Nor can it be the practice of the Catholic religion for the same reason. It cannot be the existence of a different form of law in Quebec, civil law, as there is also Native law operating legitimately in communities across the country. So what is it that makes les Québécois so special?

What is particularly distinct is their status as a "founding people", a fact which cannot be dissociated from the widely held fear in the province that French Quebecers are a dying race: a founding people cannot be allowed to either self-destruct or be destroyed from the outside. This characteristic is surely Quebec's special distinction: no other group so intimately connected with the birth of the country fears for its life.

Whether the fear is based in fact or fiction, I believe it is genuinely and sincerely felt by a very large number of French Quebecers. A process had to be started to address this fear, thus Meech Lake and the "distinct

society" clause. This legal construct was the noble end to the meetings of the First Ministers, whether or not their intentions were noble. The clause entrenches the idea that Canadians country-wide do not want a founding people's five million children to be frightened for their cultural future. Meech Lake is Canada's collective guarantee (which includes English Quebec) that French Canada will survive. ☺

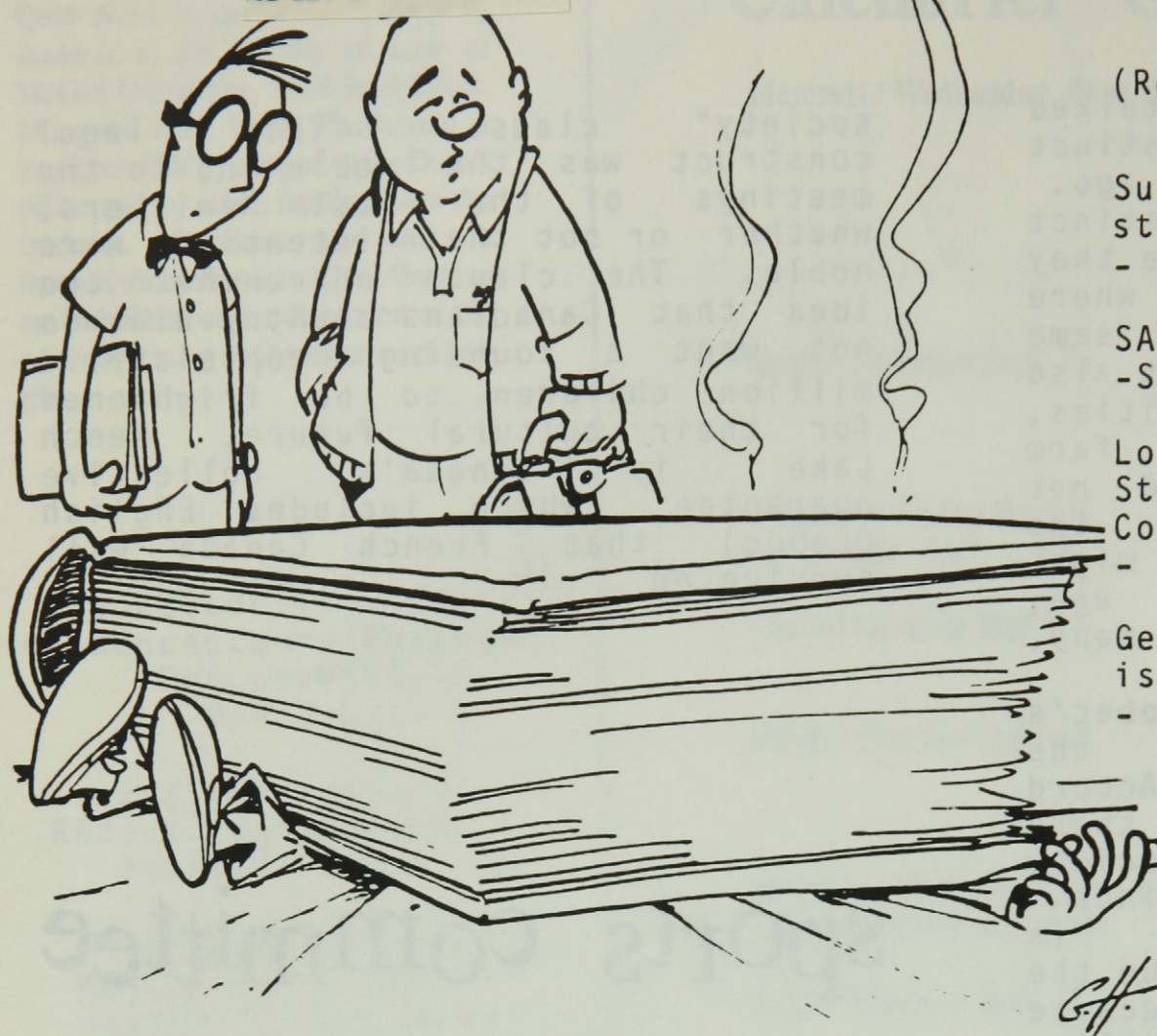
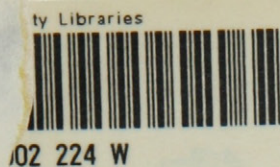
Sports Committee

Play Ball! Welcome or welcome back everyone! The days of summer may be passing, but the action continues all year round at McGill. Just some of the good things you can expect this year from the Sports Committee are the faculty games room, a range of Intramural sports, special events, and a new line of Law School Fashions.

In February we will take part in the annual Law Games/Jeux Ridiques. Chaque année presque 2000 étudiants de droit se rencontrent pendant 4 jours pour des jeux sportifs et des activités sociales. L'année passée nous avons envoyé notre plus grande délégation. Les participants de McGill ont gagné 5 compétitions et ils ont fini en 2e place, derrière l'Université de Laval, nos hôtes. As this year's games will be held at the Université de Montréal, we are expecting even greater participation and spirit!

Make things happen this year, get involved and have a good time! Si vous avez besoin de renseignements, n'hésitez pas à me contacter. A bientôt!

--Jordan Waxman



caption contest

(Reprinted from last year's Qui)

Surviving in law school means staying on top of the material.
- Steve Douglas

SAO during course change week.
-SAO

Looks like God just returned Stephen Scott's draft on the Constitution with comments.
- Steve Douglas

Gee, Professor Crépeau's casebook is smaller this year.
- Farrah, Delta & Jessy

Second Hand Book Sale / Vente de livres usages

Vendors: Bring us your textbooks, casebooks, etc, starting **Wednesday, Sept 6**. We will be accepting your wares for a week, i.e. until the next Wednesday, Sept. 13. A price list will be available to help you determine your second hand price. Please make sure you have filled out and signed our form before leaving your merchandise or we won't be able to turn over the money!

Buyers: The sale will probably begin on **Friday, Sept 8** unless we haven't received enough material, in which case we will start Monday. The sale will end on Friday, Sept. 15 or when we are sold out. We will accept personal checks with a validated McGill I.D. card for purchases over \$10.00. There are **no refunds, no exchanges, no buyways**. A price list for new books will be available to see how much you're saving! New stuff will be arriving everyday some come by often!

Vendeurs: Apportez vos livres, vos recueils de jurisprudence, etc, à partir de **mercredi le 6 sept**. Nous accepterons votre marchandise pour une semaine, i.e. jusqu'au mercredi, 13 septembre. Vous pourrez consulter une liste de prix pour déterminer la valeur usagée de votre item. Assurez-vous de remplir et signer notre formulaire avant de partir sinon on ne pourra pas vous remettre vos profits!

Acheteurs: La vente débutera probablement **vendredi le 8 septembre** à moins qu'il n'y ait pas assez de marchandises; le cas échéant, la vente commencera le lundi suivant. La vente se terminera vendredi le 15 septembre ou à l'épuisement du stock. Nous accepterons les chèques personnels pour les montants au-dessus de \$10.00, avec une carte d'identité de McGill validée. Il n'y aura **aucun remboursement, échange ou mise de côté**. Une liste de prix pour les livres neufs sera affichée pour que vous puissiez évaluer les vraies aubaines! De nouveaux titres s'ajouteront chaque jour alors passez nous voir souvent!

"Rather than tell you what the Quid Novi is all about, we've included several items which appeared last year in order to show you what we're all about. The following article by Marie Lussier, LLB III appeared in the October 4, 1988 issue."

Connaissez-vous Annie Macdonald Langstaff ?

Le mercredi 12 octobre, 1988, Kathleen Lahey de la Faculté de droit, Queen's University, présentera une conférence portant sur l'application de principes de droit féministe dans des domaines légaux traditionnels.

Cet atelier servira de forum sur la pensée féministe se rapportant au droit et il est nommé en l'honneur d'Annie MacDonald-Langstaff, la première femme diplômée en droit, à McGill et dans la province de Québec.

Née en 1887, Annie MacDonald-Langstaff obtint son diplôme en 1915, avec distinction de première classe, mais le Barreau du Québec lui refusa la permission d'écrire ses examens préliminaires. Elle pétitionna la Cour supérieure pour que le Barreau présente les raisons motivant son refus car elle avait en effet rempli tous les prérequis. Sa demande fut rejetée et M. le juge St-Pierre dit: "to admit a woman and more particularly a married woman as a barrister... as a person who pleads cases at the bar before judges or juries in open court and in the presence of the public, would be nothing short of a direct infringement upon public

order and a manifest violation of the law of good morals and public decency." (Langstaff v. Bar of the Province of Québec (1915) 47 C.S. 131 at 139). Elle porta ce jugement en appel mais il fut confirmé à la cour du Bandu Roi. La loi fut changée en 1942 mais un B.A. était désormais requis. Mme MacDonald-Langstaff ne possédait pas ce diplôme (et n'était pas prête à retourner aux études à ce point dans sa vie) et ne put donc jamais passer l'examen.

Elle publia le premier, et à ce jour seul, dictionnaire de termes juridiques français/anglais anglais/français que servit d'inspiration pour le présent ouvrage entrepris par le Prof. Crépeau et le Centre de droit

comparé de McGill. Annie MacDonald-Langstaff travailla pour l'étude connue aujourd'hui sous le nom de Phillips et Vineberg où elle fit, en ses mots, "un peu de travail de secrétaire, un peu de tenue des comptes, et un peu de droit." Elle mourut le 29 juin, 1975, à l'âge de 88 ans.

-- Marie Lussier, LLB III

DEADLINE -- DERNIERE CHANCE

Students and faculty members are reminded that all advertisements and announcements for next week's issue of the Quid must be submitted before noon, Wednesday September 6. Submissions can be left in the Quid Novi mail box in the LSA office. Thanks!

Les étudiants et facultés intéressés à soumettre des annonces ou de la publicité pour la prochaine parution du Quid sont avisé que toutes textes doivent être déposées dans la boîte du Quid Novi dans le bureau de l'AED avant midi, mercredi, le 6 septembre. Merci!

Hey You! Yeah, You!

The Quid Novi is looking for students who enjoy writing either serious or humorous articles about life in the McGill Faculty of Law. We encourage submissions regarding events both within and outside the Faculty which raise topics of interest or concern to students and staff alike. We have created the position of Arts Editor, held by Darcy Edgar, to cover film, dance, theater and the like. Students wishing to write on these and other artsy-fartsy stuff should feel free to speak to Darcy or another Quid staffer.

A general info meeting will be held in the 2nd or 3rd week of school. Watch this space and the big, blue Quid door for further details!

Le Quid Novi est à la recherche d'étudiants qui sont intéressés à soumettre des articles sérieux ou comiques sur la vie de la faculté de droit à McGill. Nous vous encourageons à remettre des articles traitant des sujets de l'extérieur de la faculté aussi, qui concernent les étudiants et le personnel. Conscient des intérêts extérieurs que nous avons tous, nous avons créé le poste de Rédactrice artistique, tenu par Darcy Edgar. Les étudiants voulant remettre des "papiers" sur les films, la danse, le théâtre, la musique, etc., sont priés de communiquer avec Darcy ou un autre rédacteur Quidien.

Il y aura une réunion d'info vers la 2e ou 3e semaine des classes. Suivez le Quid et la porte bleue Quid pour des plus amples renseignements!

a welcome back poem

(A poem about Professor Paul-André Crépeau, sung to the tune of "Puff the Magic Dragon")
By Judy Knight, BCL III

P.-A.C. the great Civilian
Lived by the Code.
He carried it, and coddled it,
Where'er he walked and rode.

P.-A.C. the great Civilian
Taught by the Code,
He drafted it and crafted it;
Carried it atop his load.

Together they would travel,
Searching for a breach
Of pre-existing duty -
Whose remedy they'd teach.

His classes were delict-able,
And quasi-interesting too.
He taught his first year students
What to do and not to do.

Pacta sunt servanda,
and P.-A.C. servandus est!
So when he asked us for those facts
We had to speak our best!

Only very rarely
Did P.-A.C. let out a roar -
discussing certain cases where
Res ipsa loquitur.

His head did bend in sorrow,
His tears did fall like rain,
When Grieco and Wabasso were
tried on a delictual plane.

Codes can stay forever;
Not so dear old P.-A.C.
But tho' he's on sabbatical,
We do hope he'll be back.

For now that we're in common law,
We admit it's P.-A.C. we miss -
The intensity of those classes, and
Auctoritatem rationis!

(Reprinted from last year's Quid.)

LSA newsheet

Quoi de neuf à l'AED

The purpose of this new weekly column is to keep you informed of what's new with the LSA. Surveillez cette section pour des annonces publics, des détails sur des événements à venir et d'autres renseignements.

For those of you who did not get a chance to apply for a position on any committees last year or for our new students, there are various positions that must be filled immediately. The deadline for applications for the following positions is Wednesday, September 13, 1989 at 5:00 p.m..

Nous avons besoins de personnes pour le comité des sports et le comité d'activités sociaux. Pour participer, vous n'avez qu'à laisser votre nom et numéro de téléphone à Vincent Lesage (activités sociaux) ou Jordan Waxman (sports). Tous les deux ont une case à l'A.E.D..

Various persons are needed to help organize the LSA Conference to be held in February. Please leave a note for Colin Chang at the LSA office. Furthermore, the position of student-member of the Prizes and Scholarships Committee is still open. Nous avons toujours besoin d'un(e) président(e) et un(e) vice-président(e) d'élections ainsi qu'un président d'assemblée pour l'A.E.D..

Pour les intéressés, vous n'avez qu'à laissez une note à l'A.E.D. avec votre nom, numéro de téléphone, raisons pour votre demande et une description de toute expérience pertinente. N'hésitez pas de faire applications car l'année est moins longue quand on s'implique!

FIRST YEAR STUDENTS!! You should note that you are eligible for all the above positions. For the politicians among you, the LSA Council will not be complete until we have elected two first-year class presidents, one for each program. Surveillez cet article pour plus de renseignements à ce sujet.

Nous vous rappelons qu'on est là pour vous. Should you require any information about the LSA or its committees, should you have any suggestions or complaints or if you just want to chat, we invite you to drop into the LSA office any time. Il y aura un membre de l'A.E.D. dans le bureau tous les jours entre 11h00 et 14h00. Si c'est plus facile pour vous, laissez nous un mot.

See you next week!! A la semaine prochaine!!

LSR: UPDATE ON CHINA

For those of you who don't know us, LAWyers for Social Responsibility (LSR) is a national organization of lawyers, law students and law professors. It aims to promote discussion within the profession and in the general public of issues of broad social importance, including the threat of nuclear war, the environment, and human rights.

We had a fairly active summer...unfortunately. Most of our activity was prompted by the Beijing massacre and its aftermath. We organized a letter campaign in mid-June in which we urged the Canadian government to take a firm stand against the repression in China. The final policy statement, issued by the government June 30, is fairly good; it is not clear however that the Canadian business sector will take to heart the government's affirmation that it will not be "business as usual" between our two countries.

There are presently some 4500 students from China studying at Canadian universities (600 in Montreal). While they are nearly all eligible for landed immigrant or refugee status, this does not resolve all their problems. First, a decision to stay in Canada is exceptionally difficult for them, given the risks it may pose to family and loved ones back home in the current political climate. Further, it appears that even those Chinese students tentatively accepted as landed immigrants will still have to pay full foreign student tuition this year (\$6000 to \$7000) since they will not receive confirmation of their status before the required deadline. The Montreal Chinese community is presently lobbying the Quebec government for exemption from the deadline (they are appealing to the universities for understanding in the meantime); otherwise the financial hardship on Chinese students, cut off from Chinese and Canadian government

funding once they decide to remain in Canada, will be severe.

The United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities recently concluded its annual session in Geneva where they considered reports of human rights violations from around the world. China was of course topmost on the agenda. McGill LSR availed itself of UN Economic and Social Council Resolution 1503 which permits individuals and groups to submit "communications" to the UN revealing a "consistent pattern of gross... violations of human rights and fundamental freedoms." If the Sub-Commission decides a communication is well-founded, it forwards it to the UN Commission on Human Rights which meets in February and March of each year. The Commission is empowered to order a full enquiry into the alleged abuses, with or without the cooperation of the state involved. The 1503 process is long, but it keeps the targeted country under sustained international scrutiny. Since late June, the Chinese government has been arresting and executing people with utmost secrecy. While Amnesty International had, by the end of August, confirmation of 33 executions related to the protests, unconfirmed reports indicate the toll is higher, perhaps in the thousands.

We hope to organize some kind of event on China during the coming year. We are also planning presentations on the environment, reproductive rights, East Timor, and central America. Give us any other ideas you have. We want your feedback. We will be having regular meetings -- times and places to be announced.

-- Glenn McDonald for LSR McGill

The McGill Law Journal is recruiting applicants for positions on its associate editorial board for the coming year. The Journal is an independent student-run organization, producing one of the finest academic legal quarterlies in Canada. Participation in the activities of the Journal offers an opportunity to contribute to the life of the faculty and of Canadian legal scholarship in a unique and concrete way, and to hone your research and writing skills at the same time. Board members participate in the production of four issues of the Journal each year, seeing articles through from initial manuscript stage to the final published product.

Les membres s'engagent à oeuvrer au sein de la Revue pendant deux années continues. Le comité de rédaction comprend 15 personnes dont 4 s'occupent de questions administratives. Les autres membres font du travail de rédaction. Les 15 membres du comité de rédaction adjoint sont initiés aux différents rouages de la Revue au cours de la première année,

ce qui leur permet de prendre le relèvement l'année suivante. L'acquisition de techniques de recherche juridique et de l'expérience générale dans le cadre de la publication d'une revue professionnelle sont au nombre des avantages à une participation active à la Revue. La Faculté de droit accorde des crédits académiques aux étudiants, en reconnaissance de leurs efforts. Eligible candidates are students in their 2nd year of the 3 year degree, or 2nd or 3rd year of the National Programme. Interested students are encouraged to fill in an application form (available at SAO or the Journal office) and submit it, along with a 1 or 2 page c.v., to SAO by 5:00 pm on September 13th.

Applicants will receive an assignment (evaluation of an article and an essay) on September 14th, which must be completed by September 21st. Interviews will be held on the 26th and 27th of September, and the new Associate Board will be selected by the end of the month. For further information just drop by the Journal office in Room 204 of NCDH.

A TAXING EXERCISE

by Richard Rosensweig, BCL III

s.750.1(1) The General Rule of The Study of Taxation -- except as otherwise provided in the Part:

(a) A law student's frustration for a taxation year is the aggregate of the amount of time, if any, by which

(i) he studied for Taxation I

(ii) he spent waiting for the 18th Edition of the Income Tax Act to arrive in the Law Faculty bookstore

(iii) he spent listening to the phrase: "Tax is an annual affair"

(iv) he was required to copy notes of a student that managed to get up for an 8:00 am make-up class

divided by

(b) his non-taxation frustration for the seven taxation years immediately preceding, and the three taxation years immediately following the year which would otherwise be determined as the proportion thereof that

(i) he spent inhaling rancid greasy fumes emitted by grilled breakfast substances in the Law Faculty Cafeteria

(ii) he watched American and/or Canadian election debates

(iii) he spent trying to get a seat in the second year BCL section of Common Law Property I

the quotient of which may be subtracted from

(c) the existing life of the student before ever having read a sentence such as this

is equal to

(d) the law student's frustration for taxation year for the purposes of this part.

HERMAN

by JIM UNGER

